

HAYNES BOONE



January 10, 2023

Via ECF

The Honorable Katharine H. Parker
United States District Court
Southern District of New York
500 Pearl Street, Room 750
New York, NY 10007

***Re: GMO Gamecenter USA Inc. and GMO Internet, Inc. v. Whinstone US, Corporation,
No. 1:22-cv-5974 (S.D.N.Y.)***

Dear Judge Parker:

Pursuant to Your Honor's Individual Practices in Civil Cases Rule II(d), Plaintiffs GMO Gamecenter USA, Inc. and GMO Internet Group, Inc. (collectively, "GMO"), and Defendant Whinstone US, Inc. ("Whinstone" and with GMO, the "Parties"), jointly write to request the Court's approval of the Parties' proposed protective order (the "Protective Order"), which differs in several respects from Your Honor's model protective order. A copy of the Protective Order is attached as Exhibit A, and a copy of a blackline demonstrating the differences between the Protective Order and Your Honor's model protective order is attached as Exhibit B.

First, compared to Your Honor's model protective order, the Protective Order adds two additional exceptions for persons to whom Confidential Information may be disclosed: (i) deposition witnesses, and (ii) any person agreed to by the Parties. The Parties believe adding these exceptions will foster more effective depositions and permit the Parties to confer and agree upon persons to whom Confidential Information may be disclosed.

Second, the Protective Order adds the designation of "Highly Confidential – Attorneys' Eyes Only" for purposes of safeguarding Confidential Information which, if disclosed, would violate applicable law or cause harm to the business, commercial, financial or personal interests of a Party (or a third party to whom a duty of confidentiality is owed) and consists of one of four specific categories of highly sensitive information. *See* Protective Order ¶ 2. The Protective Order permits disclosure of information designated "Highly Confidential – Attorney's Eyes Only" to outside counsel for the requesting Party, employees of such outside counsel, consultants/experts, representatives of the producing Party, persons who the requesting Party has a good faith reason to believe created, received, or sent such designated information, persons agreed to by Parties, and the Court. *Id.* ¶¶ 4-5.

Third, the Protective Order requires a requesting Party that must disclose Confidential Information as a result of the applicable law or a valid subpoena to first provide notice to the producing Party prior to disclosing the Confidential Information. The Parties believe it is important that a producing Party be aware of any required disclosures of Confidential Information.

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Finally, the Protective Order adds a provision permitting amendment of the Protective Order by motion or written stipulation, and in either case, subject to this Court's approval.

We greatly appreciate the Court's consideration of the above.

/s/ Leslie Thorne

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